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In re Application of
Joseph KNOERLE, et al.
Application No. 09/383,145
Filed: August 26, 1999
For: METHOD AND SYSTEM FOR
PRESERVING SERVICE NODE RESOURCES
AND REDUCING CLIPPING EFFECT

**DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT**

This is in response to the Renewed Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice of Allowance filed May 20, 2004.

The application is held as abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed August 11, 2003. A Notice of Abandonment was mailed February 4, 2004.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

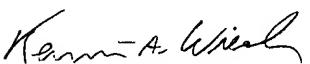
A review of the record indicates that the Notice of Allowance was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the Patent and Trademark Office.

The petitioner has now made a sufficient showing of non-receipt of the Office action in accordance with the requirements set forth above. The petition includes a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The docket record is referenced in practitioner's statement.

Accordingly, the petition is **GRANTED**.

The Notice of Abandonment is vacated and the holding of abandonment withdrawn. The Notice of Allowance mailed August 11, 2003 is also vacated.

Since it has been established that the Notice of Allowance was not received, it is presumed that the Notice of Allowability was also not received. The application file will be forwarded to the Technology Center's technical support staff for preparing a new Notice of Allowance and Issue Fee Due. The new Notice of Allowance and the Notice of Allowability will be re-mailed to the address listed above. The statutory time period for paying the issue fee will be re-set to begin as of the mailing date thereof.



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Communications